IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20560 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHOGILAL SOMABHAI PARMAR - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR TRILOK J PATEL for Petitioner(s) : 1,
MR MR MENGDEY, AGP for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.
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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 11/10/2005

ORAL JUDGMENT

1.Rule. Shri MR Mengdey, learned AGP waives service of rule on behalf of the respondents.

2.With the consent of the parties, the matter is taken up for final hearing today.

3.In this petition, under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the the judgment and order passed by the Gujarat Revenue Tribunal dated 15-4-2005 passed in Revision Application No. TEN.BA. 107 of 2000 in dismissing the same and confirming the order passed by the Collector, Vadodara dated 26-7-1999 fixing the amount of premium while converting the land from new tenure to old tenure. It appears from the record that the dispute is with regard to the land bearing survey no.1484 paiki admeasuring 1950 sq mtr situated in the sim of village Dabhoi, Dist: Vadodara and the petitioner wanted to remove the restriction and get it converted from new tenure to old tenure and therefore the petitioner submitted an application in the year 1993. However, it appears that in view of the fact that there was some litigation pending, the said application was filed. After the litigation was over, the petitioner again moved an application on 23-4-1999 and by impugned order dated 26-7-1999, the Collector, Vadodara granted permission converting the land from new tenure to old tenure and fixing the premium

considering the market price of the land in question at Rs.1810/- per sq mtr. Considering the 70% of the same, the petitioner was directed to pay Rs.24,70,109/- by way of premium. Being aggrieved by and dissatisfied with the order passed by the Collector, Vadodara dated 26-7-1999, the petitioner preferred Revision Application No. TEN.BA. 107 of 2000 before the Gujarat Revenue Tribunal and the Gujarat Revenue Tribunal by its judgment and order dated 15-4-2005 dismissed the said revision application confirming the order passed by the Collector, Vadodara.

4. Being aggrieved by and dissatisfied with the aforesaid two orders, the petitioner preferred the present Special Civil Application.

5. Shri Trilok J Patel, learned advocate appearing on behalf of the petitioner has vehemently submitted that so far as the order passed by the Collector, Vadodara is concerned, the same was in breach of principle of natural justice, more particularly the basis upon which the market price was fixed at Rs.1810/- per sq mtr is not disclosed to the petitioner and the petitioner has not been given anY opportunity to meet with the same and therefore, the said order is required to be quashed and set aside and the matter is required to be remanded

to the Collector Vadodara for passing an appropriate order afresh after giving an opportunity to the petitioner of being heard and after giving the material upon which the reliance has been placed while fixing the premium on the basis of the market price. Shri Patel has submitted that the Gujarat Revenue Tribunal has materially erred in confirming the said order in spite of the fact that the order passed by the Collector, Vadodara was in breach of principle of natural justice.

6. Shri Mengdey, learned AGP has tried to support the order passed by the Gujarat Revenue Tribunal as well as the Collector, Vadodara and submitted that the order passed by the Collector, Vadodara was on the basis of the market price fixed by the District Valuation Committee consisting of four senior officers such as District Collector, District Development Officer, Residential Deputy Collector and Officer from the Town Planning Department and the premium has been fixed considering the market price and considering the valuation fixed by the said committee, therefore, it is requested to dismiss the present Special Civil Application.

7. Heard learned advocates for the parties. It is not in

dispute that while passing the impugned order dated 26-7-1999 and fixing the premium on the basis of the market price and directing the petitioner to pay Rs.24,70,109/- being the amount of premium, the petitioner has not been supplied with any material upon which the reliance has been placed and the petitioner has not been given any opportunity to controvert and or dispute the market price.

8. Under the circumstances, the impugned order dated 26-7-1999 is in breach of principle of natural justice and accordingly the matter is required to be remanded to the Collector, Vadodara for passing an appropriate order afresh in accordance with law and on merits and after giving an opportunity to the extent that the petitioner should be supplied the material upon which the reliance might be placed while determining the premium and market price. However, it is made clear that the said valuation and the market price would be considered as of 1999 and not of 1992 i.e. first date of application as it was in the present case, there was no delay on the part of the Government but the delay has taken place on account of the fact that there was litigation pending with regard to the land in question.

9. For the reasons as stated above, petition succeeds. The

impugned order passed by the Gujarat Revenue Tribunal dated 15-4-2005 passed in TEN.BA. 107 of 2000 as well as the order passed by the Collector, Vadodara dated 26-7-1999 are hereby quashed and set aside and the matter is remanded back to the Collector, Vadodara for passing appropriate order afresh in accordance with law and on merits and to determine the premium considering the market price of 1999 after giving an opportunity to the petitioner of being heard and supplying the material upon which the reliance will be placed by the Collector, Vadodara to fix the premium on the basis of the market price. Rule is made absolute to the aforesaid extent. However, there will be no order as to costs.

(M.R.SHAH,J)

Shekhar/-